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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

NORTHERN ARAPAHO TRIBE,

Plaintiff,

v.

DARRYL LaCOUNTE, et al.,

Defendants.

NORTHERN ARAPAHO TRIBE,

Plaintiff,

v.

U.S. DEPARTMENT OF THE INTERIOR, et al.,

Defendants.

No. 1:16-cv-11-BMM
No. 1:16-cv-60-BMM

(consolidated)

MEMORANDUM IN SUPPORT OF JOINT MOTION TO EXTEND PARTIES' TIME TO RESPOND TO MOTION BY SHOSHONE TRIBE OF WIND RIVER RESERVATION TO INTERVENE

Pursuant to Fed. R. Civ. P. 6(b)(1)(A) and L.R. 7.1(d)(1)(A), and for good cause shown, Plaintiff and Defendants in these consolidated actions file this brief in support of their joint motion to extend until May 9, 2017, the time to respond to the motion by the Shoshone Tribe of the Wind River Reservation to Intervene. In support of this motion, the parties state as follows:

1. On March 30, 2017, this Court ordered the parties to participate in a settlement conference on April 27, 2017, in Billings, Montana before Magistrate Judge Johnston. ECF No. 154. Magistrate Judge Johnston ordered the parties to submit confidential settlement statements on April 12 and conducted ex parte telephone conversations with counsel for each party on April 19.

2. On April 12, 2017, the Shoshone Tribe of the Wind River Reservation moved to participate in the April 27 settlement conference and to intervene in these consolidated actions. ECF No. 157. Pursuant to LR 7.1(d)(1)(B)(ii), the parties have 14 days, or until April 26, to respond.

3. On April 19, 2017, this Court granted the motion by the Shoshone Tribe to participate in the April 27 settlement conference and took the motion to intervene under advisement. ECF No. 162.

4. The April 26 deadline for the parties' to respond to the motion by the Shoshone Tribe to intervene falls on the day before the mediation. Pursuant to L.R. 16.5, the parties have arranged for representatives of their clients to attend and

participate, with appropriate settlement authority. The parties have been in communication between themselves and with Magistrate Johnston in efforts to make mediation as successful as possible. Counsel and the parties require substantial time to continue these informal settlement discussions, confer with their clients, and prepare for the mediation. As a result, the parties require additional time to adequately respond to the Shoshone Tribe's motion to intervene.

5. The parties seek an extension of their deadline to respond to May 9, 2017. In light of the fact that this Court has already granted the motion of the Shoshone Tribe to participate in the April 27 settlement conference, an extension of time to respond to the motion to intervene will not prejudice the Shoshone Tribe. The Shoshone Tribe has had ample time to file its motion to intervene. The Shoshone Tribe was at one time a party in this proceeding, and its legal counsel remain on the PACER/ECF system and continue to timely receive or have access to notices and filings of the Northern Arapaho Tribe and Federal Defendants as this matter has proceeded.

6. Federal Rule 6(b) allows a court to extend, for good cause, the time period for when an act must be done. Fed. R. Civ. P. 6(b)(1)(A); *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1258-59 (9th Cir. 2010) ("[Federal Rule of Civil Procedure 6(b)(1)], like all of the Federal Rules of Civil Procedure, is to be liberally construed to effect the general purposes of seeing that cases are tried on

the merits. Consequentially, requests for extensions of time made before the applicable deadline has passed should normally be granted in the absence of bad faith on the party seeking relief or prejudice to the adverse party.") (internal citations, ellipses, and brackets omitted); *see also Guillen v. Owens*, 2011 WL 6032861, at *2, No. 10-cv-226 (D. Ariz. Dec. 5, 2011) (court may grant extension "pursuant to its inherent authority to manage its cases.") (citing *F.J. Hanshaw Enters., Inc. v. Emerald River Dev., Inc.*, 244 F.3d 1128, 1136 (9th Cir. 2001)).

4. Pursuant to L.R. 7.1(c)(1), undersigned counsel for Plaintiff, on behalf of both parties, diligently contacted counsel for the Shoshone Tribe about whether the Tribe would consent to an extension of time to respond to the Shoshone Tribe's motion. The Shoshone Tribe does not consent.

CONCLUSION

This Court should grant the parties' extension motion.

Dated: April 20, 2017

Respectfully Submitted,

s/ Andrew W. Baldwin
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L.R. 7.1(d)(2)(E) CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the word-count requirements of L.R. 7.1(d)(2)(B).

s/ Andrew W. Baldwin
ANDREW W. BALDWIN (*pro hac vice*)

CERTIFICATE OF SERVICE

I certify that on April 20, 2017, I electronically filed the foregoing filing. Notice of this filing will be sent by email to all parties of record by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

s/ Andrew W. Baldwin
ANDREW W. BALDWIN (*pro hac vice*)